

5-13-1977

Report on State Measure No.1: School Operating Levy Measure

City Club of Portland (Portland, Or.)

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City Club of Portland (Portland, Or.), "Report on State Measure No.1: School Operating Levy Measure" (1977). *City Club of Portland*. Paper 315.

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REPORT ON
STATE MEASURE NO. 1
SCHOOL OPERATING LEVY MEASURE

Purpose: Proposed constitutional amendment limits school districts to two elections per year for operating levy outside tax base unless voters petition for additional elections. After two defeats, school board may authorize operating levy not greater than previous year's operating levy plus not more than 6%. Amount must be less than lowest total operating levy which unsuccessful election would have authorized. Permits legislature to reduce authority in event of school cost reduction. Effective immediately.

I. INTRODUCTION

The Oregon state legislature passed Senate Joint Resolution 7 (SJR 7) by a vote of 26-4 on March 24, 1977 in the Senate, and by a vote of 55-5 on March 25, 1977 in the House. This measure, now known as Ballot Measure No. 1, would amend Article XI of the Oregon Constitution by adding a new section 11-a to provide a so-called "safety net" for minimum local support of school districts in Oregon and will be voted on by the electorate on May 17, 1977.

During the course of its study, which commenced on April 4, 1977, your committee either as a whole or through individual members, interviewed witnesses, either by telephone or personal meetings, as listed in Appendix A. In addition, your committee reviewed prior City Club reports, newspaper editorials, statistical data compiled by the Oregon School Boards Association, material provided by the Educational Coordinating Commission, and other written material submitted by both supporters and opponents of the measure.

II. BACKGROUND

Oregon school districts have historically been funded primarily from two sources: local real property taxes and funds appropriated by the state legislature, known as the Basic School Support Fund (BSSF).

Under Article XI, Section 11, of the Oregon Constitution, the voters of a school district may establish a tax base which is the amount of property tax which may be levied for the base year. The tax base may then be increased each subsequent year by the school board by not more than 6% each year without a vote of the people.

Of the 334 school districts, only in 109 have the voters approved a tax base, and in only 5 is the tax base considered to be adequate for local school finance budget needs at this time. Those districts with no tax base or without an adequate tax base must submit requests for operating levies to their voters each year.

There are eight days set throughout the year when local school districts can schedule levy elections. In 1975-76, according to data compiled by the Oregon Department of Education, in the 322 districts holding elections, 223 passed their requested levies on the first attempt, 62 on the second, 27 on the third, 8 on the fourth, and 2 on the fifth. A total of 471 elections were held during this period.

A school district may also request voter approval of a serial levy, which provides funds for more than one year. In Portland, School District No. 1 voters in November of 1974 approved a two-year serial levy of \$6 million in each year, which will end June 30, 1977. On May 24, 1977, the Portland School District voters will be asked to approve a new three-year serial levy of \$7.4 million each year.

The state level of support from BSSF varies from year to year, having been as low in recent years as 21.8% of total school district operating costs and as high as the estimated 30% of the present year. The legislature is presently considering proposals to raise this percentage to as high as 40%. Oregon ranks near the bottom (48th out of 50 states) in the level of state General Fund support for local education.

In 1974 an attempt was made to amend Section 11 of Article XI to create new tax bases for all school districts in the state in an amount equal to each district's 1974-75 operating budget, and to permit an automatic 5½% annual increase in the tax base each subsequent year. The measure also included authority to the legislature to establish equalization districts. The City Club recommended disapproval of the measure, due to the arbitrary setting of the tax base for each district, the inflexible nature of the increase formula, and the inclusion of what the committee felt was a poorly drafted equalization provision. The voters agreed and rejected the measure.

During 1976, schools in three school districts were closed for a period of time, due to failure of the voters in each district to approve the requested operating levy. Schools in North Bend were closed for 24 days before voters finally passed a \$3.6 million budget that had been reduced from a previously defeated level of \$4 million. The Eagle Point schools closed on October 15 and did not re-open until late in December of 1976. The schools also closed briefly in South Lane (Cottage Grove) district.

III. ANALYSIS OF THE PROPOSED AMENDMENT

If adopted, the measure would amend the Oregon Constitution in the following respects:

1. A school district, authorized to levy a tax under Section 11 of Article XI, would be able to hold only two elections for the purpose of authorizing an operating levy in excess of the district's tax base, if any, for any school year. An election to authorize a serial levy is to be considered an election for this purpose for the first year for which the levy would have been authorized.
2. If the voters of a district reject the levy at both elections then the school board may authorize a "safety net" operating levy without further vote of the electorate, except the total operating levy authorized under the "safety net" shall:
 - a. Not exceed the district's total operating levy for the previous year plus not more than 6% thereof; and
 - b. Be less than the smaller of the two levies rejected by the voters, plus the tax base and any serial levy for operating purposes, plus 6% of that serial levy.
3. However, additional budget elections beyond the initial two elections could still be authorized by the district school board upon receipt of a petition by 10% of the number of voters voting at the last school budget election held.
4. The "operating levy" is defined as the total amount certified to the county assessor minus taxes levied to: (1) pay principal and interest on bonded indebtedness; (2) acquire school sites; (3) to construct and equip new buildings or to make major additions to existing school building; and (4) be distributed by an Intermediate Education District to its component districts as revenue rather than tax offsets as of the date of this amendment.
5. Even after authorizing the safety net levy, a district could still levy taxes for the following areas which are excluded from receipt of safety net funds: (1) payment of bonded indebtedness or interest thereon; (2) serial levy, which is a levy for more than one year, if it is solely for acquisition of school sites or for construction and equipping new school facilities or major additions to existing facilities.
6. A district's voters could authorize a serial levy for purposes other than those stated in paragraph 5 above, but then the district could not use the "safety net" procedure any year that the serial levy was imposed.

7. The definition of a tax base will be unchanged by the measure, and the measure specifically states that it does not affect the tax base of a district. The measure does, however, create a limited taxing authority which is similar in many respects to a tax base.
8. The legislature is authorized, upon a finding of sufficient change of circumstance in a district, including a decrease in enrollment or other cost reductions, to reduce the tax levying authority under the safety net provision, but not below the tax base of the district.
9. The measure will apply to all elections held after May 17, 1977, if approved by the voters.

To illustrate the effect of this measure on specific sets of circumstances, consider the following:

SCHOOL DISTRICT X

| | |
|---------------------|----------|
| Past year budget | \$10,000 |
| Tax base (incl. 6%) | 0 |
| Levy | 7,000 |
| BSSF & other | 3,000 |

Example A

| | |
|---------------------|------------------|
| New proposed budget | \$12,000 |
| (BSSF same) | |
| Levy election #1 | 9,000 (defeated) |
| Revised budget | \$11,000 |
| Levy election #2 | 8,000 (defeated) |

| | |
|--------------------------|----------|
| Board imposes safety net | |
| (7,000 plus 6%) | \$ 7,420 |
| plus BSSF | 3,000 |

| | |
|---------------------|----------|
| New approved budget | \$10,420 |
|---------------------|----------|

Example B

| | |
|---------------------|------------------|
| New proposed budget | \$10,000 |
| (BSSF same) | |
| Levy election #1 | 7,000 (defeated) |
| Revised budget | \$ 9,000 |
| Levy election #2 | 6,000 (defeated) |

| | |
|--------------------------|----------|
| Board imposes safety net | \$ 5,999 |
| plus BSSF | 3,000 |

| | |
|---------------------|----------|
| New approved budget | \$ 8,999 |
|---------------------|----------|

SCHOOL DISTRICT Y

| | |
|---------------------|----------|
| Past year budget | \$10,000 |
| Tax base (incl. 6%) | 1,000 |
| Serial levy (2 yr.) | 1,000 |
| Levy | 5,000 |
| BSSF & other | 3,000 |

Example A

| | |
|---------------------|------------------|
| New proposed budget | \$12,000 |
| (BSSF same) | |
| Levy election #1 | 7,000 (defeated) |
| Revised budget | \$11,000 |
| Levy election #2 | 6,000 (defeated) |

| | |
|---------------------------|-------|
| Board imposes safety net | |
| (5,000 plus 6%) | 5,300 |
| plus tax base | 1,000 |
| plus serial levy, plus 6% | 1,060 |
| plus BSSF | 3,000 |

| | |
|---------------------|----------|
| New approved budget | \$10,360 |
|---------------------|----------|

Example B

| | |
|---------------------|------------------|
| New proposed budget | \$10,000 |
| (BSSF same) | |
| Levy election #1 | 5,000 (defeated) |
| Revised budget | \$9,000 |
| Levy election #2 | 4,000 (defeated) |

| | |
|---------------------------|----------|
| Board imposes safety net | \$ 3,999 |
| plus tax base | 1,000 |
| plus serial levy, plus 6% | 1,060 |
| plus BSSF | 3,000 |

| | |
|---------------------|----------|
| New approved budget | \$ 9,059 |
|---------------------|----------|

An analysis made by Senator Boe's office of 28 school districts revealed that use of the "safety net" each year for the last 6 years at a maximum allowable increase each year would have resulted in a total lower than the present levy in each district totalled over the entire period. The totals for Salem District No. 24J in Marion County are illustrative and are as follows:

| | Actual Operating Levy* | Percent Change | SJR 7 All votes on levy outside base fail* | Percent Change |
|------------------------|------------------------------|-------------------|---|-------------------|
| 1970-71 | 13,088,461 | | 13,088,461 | |
| 1971-72 | 14,845,760 | + 13.4 | 13,873,769 | + 6.0 |
| 1972-73 | 16,946,101 | + 14.1 | 14,706,195 | + 6.0 |
| 1973-74 | 18,438,983 | + 8.8 | 15,588,566 | + 6.0 |
| 1974-75 | 17,656,003 | - 4.2 | 16,523,880 | + 6.0 |
| 1975-76 | 22,513,712 | + 27.5 | 17,515,313 | + 6.0 |
| 1976-77 | 25,295,208 | + 12.4 | 18,566,232 | + 6.0 |
| Total levy, 1971-77 | 128,784,228 | | 109,862,416 | |

*Actual Certified Operating Levy

**Assumes all votes on levy outside base fail (i.e., 6% growth) unless voters approved an increase less than 6% in which case the approved levy is entered.

IV. ARGUMENTS IN FAVOR OF BALLOT MEASURE NO. 1

1. Passage of this measure would prevent school closures, as occurred in three districts in 1976, and would insure that all school children throughout the state would have an uninterrupted school year.

2. Stability in our school systems is of overriding state concern. The continued threat of school closures discourages new business from entering the state or local community, and disrupts normal school employee relationships with students and administrators.

3. No meaningful formula for reform of school finance can be devised without a base of mandated stability. Passage of this measure will not prevent or inhibit plans for reform presently being considered.

4. Passage of this measure does not eliminate the right of the citizens to vote on school matters in their district. They are still required to vote on all tax levies over the tax base, and they retain the right to elect or recall their school board officials.

5. The "safety net" plan must be presented to the voters unencumbered with other features, which the voters might not understand or which might create organized opposition. The measure as presently drafted is simple and meets a specific problem head-on.

6. The 6% maximum increase applies only to the portion of the school budget represented by the locally raised operating levy; it does not apply to funds provided by BSSF or other sources. Thus the real maximum increase in the school budget permitted from one year to the next is closer to 3 or 4%. The 6% increase is in any event not automatic — it is only a maximum.

7. A large majority of school districts now are successful in passing their levies on the first or second attempt, and the "safety net" will be used only infrequently. The imposition of the safety net will prevent repeated and costly elections in those few districts that do not pass on the first or second attempt, thus resulting in some savings to the taxpayers.

8. This measure is designed to create only a taxing authority in the local school district — it specifically does not affect the tax base in those districts that have one, nor does it create one in those that do not have one.

V. ARGUMENTS IN OPPOSITION TO BALLOT MEASURE NO. 1

1. Passage of this measure would remove budgetary control by the voters over their local school districts, and would in effect impose a tax base on all districts, even though most district voters have chosen not to establish a tax base. Since local property owners pay the bulk of the school bill, they are entitled to control budgets.

2. The measure allows an endless 6% increase in taxing authority without voter approval, resulting in local taxes possibly doubling every 10 or 12 years. There should be a limitation as to period of years in which this compounding could occur.

3. The "safety net" will encourage school boards to seek levies in excess of the safety net base, since they can after two defeats fall back to the safety net level.

4. Local budgetary control is also an effective way for voters to control curriculum, quality of personnel and other non-budgetary matters, and loss of this right may lead to the setting of standards contrary to the desires of the local community.

5. The measure is only a piecemeal approach to school finance reform, and passage by the voters will permit the legislature to avoid dealing with the need for complete reform in all school finance matters.

6. There is no inclusion of an expenditure limitation in the measure, or a requirement of offset against property taxes of future increases in BSSF, both of which are considered essential to school finance reform.

7. The measure may have the effect of harming school districts, if the inflation rate continues to exceed 6% annually, since voter apathy or hostility may force reliance on the safety net to prevent closures, without adequate attention given to increasing the levy to meet inflationary needs or the costs of an increasing enrollment in a given school district.

8. The safety net will permit school districts with declining enrollments to continue levying funds at the same rate, plus 6%, even though actual costs will be declining in relation to the decreased enrollment; the authority for the Legislature to reduce the taxing authority in such cases is insufficient protection for the taxpayers.

9. There is no real crisis that necessitates amending the Oregon Constitution. Only schools in three districts out of 334 closed for a brief time in 1976, and this is insufficient cause for the massive changes being contemplated in this measure.

10. Voters are going to protest having to vote twice in two levy elections that do not count, and then having a tax increase imposed on them anyway; this reaction will adversely affect all elements of community-school relations.

VI. DISCUSSION

Oregon is almost unique among the states of this country in the degree that its basic school financing is dependent upon property taxes and upon local voter control. Part of this local control is mandated by Article XI, Section 11 of the Oregon Constitution which provides that the property tax base cannot be increased by more than 6% in any one year for the support of any taxing unit. This portion of the Constitution, which was enacted in 1916, is given the blame for the fact that almost all of the individual school districts must in fact go to the voters each year for approval of their operating budgets. It is argued that a 1916 amendment to the Constitution does not accommodate the realities of school finance in 1977. Thus we are confronted from time to time with constitutional changes that the sponsors hope will cure part of the problem and will be acceptable to the voters.

Ballot measure No. 1 is the latest in this string of proposed modifications. It sponsors

in the Oregon legislature, where it was known as SJR 7, have pointed to the well-publicized temporary closures of three school districts in the fall of 1976 as evidence of the archaic nature of Section 11 and of what can happen ultimately when the voters who must pay the property taxes will not accept the inflationary facts of life as reflected in almost all 1970s school budgets. The sponsors say that, when schools close and Oregon children are denied the opportunity for education, this becomes a matter of state concern which transcends the tradition of local voter control over school budgets.

It cannot be denied that passage of this measure will cause a loss of control by voters over their local school budgets, as the opponents argue. Only 109 of the 334 local school districts have a voter-approved tax base, which permits the levying of school support taxes without a vote of the district voters, and of the 109, only 5 are considered to be adequate to meet the needs of 1977. Thus we must conclude that the voters in the remaining 329 districts do not have an adequate tax base because they do not want one — they wish to retain the right each year to approve the school district operating levy. And contrary to the repeated claims of the supporters that this measure does not create or otherwise affect tax bases, the fact remains that a levying authority in each district will have been imposed on the voters which, insofar as it pertains to school district budgets, will have the same effect as the creation of a tax base.

Since the levying authority, which has the same effect as a tax base, is being imposed upon the voters of each local district by statewide voter action if this measure passes, it is unfortunate that two possible features were not included in the measure: (1) a "sunset" provision that would cause termination after a period of years, and (2) an expenditure limitation or some form of offset against the levying authority by future increases in the percentage of state support. We are told that neither feature was included because each would have engendered opposition in some organizations, and it was important to the sponsors that all school-related organizations present a united front in support of the "safety net" concept. In our opinion, inclusion of either or both of these provisions would have quieted much of the opposition and would make this measure much more palatable to the voters.

The lack of a termination clause in the measure could result in a compounding of the level of the minimum "safety net" by maximum application of the 6% annual increase factor, so that in about 12 years or so the total "safety net" amount would be double the amount at the start of the plan. In other words, the local school district would have the constitutional authority to levy the past year's local levy plus 6%, each year endlessly, with no maximum limitation. It is argued of course that most school district boards will act responsibly and will not impose a levy at any higher level than absolutely necessary, and that the voters will have recourse at the polls against any school board members who do not act responsibly. And this is a compelling argument, if we accept the basic premise of local voter control over elected officials as being the ultimate safeguard. Since most school board officials are unpaid, it can be presumed that those who choose to serve do so because of a desire to help their communities meet their educational responsibilities and not for any self-serving motives.

The lack of an expenditure limitation is, in our opinion, a more serious problem with this measure. Such a limitation is an important element in the school finance reform plan of Governor Straub,* and for the sponsors to ignore this feature and take this measure to the voters on a "prevent school closure" argument without some form of expenditure limitation could lead to a conclusion that the sponsors have surrendered to the organized school groups. The Governor's plan also provides for offsets against local property taxes,

*The plan endorsed by Governor Straub was prepared by the School Finance Advisory Committee, chaired by Stafford Hansell, and included members from the Educational Coordinating Commission, Department of Revenue, Legislative Review staff and Department of Education. The report dated Feb. 24, 1977, addressed the total spectrum of school problems — property tax limitations, equalization of educational opportunities and expenditures, public understanding, and local control — and it made specific recommendations for legislative action.

upon future increases in the state level of school support. Without this offset provision and with imposition of the "safety net" by the voters, it will be too easy for the legislature to simply raise the BSSF, then adjourn and return home without taking any action on school finance reform.

As to the primary question of whether a "safety net" is needed or desirable, your committee heard arguments which centered on the question of whether Oregon is going to continue its tradition of complete local voter control over the schools or whether there is in fact an overriding state concern that no further school closures occur. The opponents argue that the entire problem is magnified out of proportion with the actual facts, that only three schools closed in 1976 and for only brief periods, that the bulk, over 80%, of all school district budgets pass on the first attempt. The opponents argue further that voter control over budgets is also an effective way of controlling curriculum, quality of school personnel, and other non-budgetary matters; the Oregon tradition of local voter control over schools is the overriding concern, and if the voters want to close their schools, then so be it. The proponents on the other hand argue that school closures, even if only one or two are involved, receive nation-wide publicity and an aura of instability is created which is harmful to business interests in the state which need to attract quality employees and to outside businesses which may be considering relocating to Oregon. It is also argued that, as documented in the Eagle Point experience of 1976, school children move to other districts, teachers seek other employment, and general disruption occurs in the community over even a temporary closure which cannot be easily overcome.

Your committee has, in the short time available to it, tried to evaluate the various arguments pro and con and has tried to educate itself in the matters of school finance, insofar as these matters would be affected by passage of this measure. We deplore the thrusting of this measure on the voters on a sole "anti-school closure" basis without including this in a general school finance reform package, which at least makes some attempt to address itself to the problems delineated in the Governor's Task Force Report. But since this measure and the "safety net" is the only issue before us at this time, we must agree that the prevention of future school closures is important to the state as a whole and that perhaps it is time to tell voters in each local district that in our more complex 1977 society we must sacrifice some of the elements of local control over school budgets. School districts should no longer be the "whipping boy" for all voters' dissatisfaction over real property taxes. Since the 6% increase built into the "safety net" will not even cover the annual inflation rate, it is not unrealistic to conclude that most school districts will still need to go to the voters for excess levies just to maintain present programs, and this will permit at least some retention of voter control over budgets. Likewise the voters have the important ultimate control over the school board members themselves, which should be an adequate check against irresponsible behavior.

VII. CONCLUSION

Ballot Measure No. 1 is not responsive to the need for school finance reform as enunciated by Governor Straub. It does however fulfill the need for stability in local school districts, and it will prevent future school closures, which is a matter properly of statewide concern. In our opinion, passage of this measure will not provide any excuse for the legislature to avoid its responsibility for meaningful school finance reform prior to the end of the present session. It will not completely separate local school district budgets from control by the voters in each district. As noted above, there are certain provisions which your committee wishes were included in the measure. But it is Ballot Measure No. 1 in its present form that must be considered, and your committee concludes, on balance, that its good features outweigh its omissions. Even this "bandaid" approach to resolving the problems of school finance is better than no action.

VIII. RECOMMENDATION

Your committee recommends that the City Club support Ballot Measure No. 1 with a "YES" vote at the May 17, 1977 election.

Respectfully submitted,

Richard Brown

Ann Dahlen

Alan J. Gardner

Doreen L. Wolfe

Peter A. Plumridge, *Chairman*

Approved jointly by the Research Board and Board of Governors on May 2, 1977, and ordered published and distributed to the membership for discussion and action on May 13, 1977.

APPENDIX**Group interview**

Sen. Jason Boe, President, Oregon State Senate

Sen. Frank Roberts

Jonathan Newman, Member of Board, School District No. 1 (Portland) and President,
Oregon School Board Association

Thomas Rigby, Executive Director, Oregon School Boards Association

Individual interview

Sen. Betty Roberts

Sen. George Wingard

Rep. Robert Brogoitti

Rep. Al Riebel

Rep. Bill Rogers

Rep. Mae Yih